

**DOCKET SECTION**  
**BEFORE THE**  
**POSTAL RATE COMMISSION**  
**WASHINGTON, D.C. 20268-0001**

RECEIVED  
APR 1 12 43 PM '98

---

POSTAL RATE AND FEE CHANGES, 1997

---

Docket No. R97-1

**INITIAL BRIEF OF**  
**NIAGARA TELEPHONE COMPANY**  
**(APRIL 1, 1998)**

Niagara Telephone Company (Niagara), Intervenor, hereby submits its Initial Brief in the captioned docketed proceeding. In support whereof, the following is respectfully submitted:

**INTRODUCTION**

1) Niagara's December 30, 1997 Direct Testimony, Tr. Vol. 21, at.10649-54, submitted by Mr. Sydney R. Peterson<sup>1</sup> argues that the United States Postal Service (USPS) should be required to institute a "local only" mail rate because the USPS already provides a "local only" mail service. However, contrary to statutory requirements that each mail service recover its own direct and indirect costs, the USPS has not established an appropriate mailing rate for the "local only" service. Accordingly, the Postal Rate Commission should either a) reject the USPS's proposed rates; b) assign rates to "local only" mail which includes a combination of an entered at destination discount plus a presorted rate which is equal to 50% of the USPS's proposed First

---

<sup>1</sup> Mr. Peterson is Niagara's president.

Class rates for the same weight article; or c) provide any other relief which the Postal Rate Commission considers is appropriate.

## **ARGUMENT**

2) Congress requires that mail be classified and priced in a reasonable, fair, and equitable manner so that each class or type of mail service recovers its own direct and indirect costs. 39

U.S.C. §§3621,<sup>2</sup> 3622(b)(3).<sup>3</sup> The USPS's proposed rate system fails to account for the

---

<sup>2</sup> § 3621, Authority to Fix Rates and Classes, provides that

Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of this chapter. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service under honest, efficient, and economical management to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States. Postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal as nearly as practicable total estimated costs of the Postal Service. For purposes of this section, "total estimated costs" shall include (without limitation) operating expenses, depreciation on capital facilities and equipment, debt service (including interest, amortization of debt discount and expense, and provision for sinking funds or other retirements of obligations to the extent that such provision exceeds applicable depreciation charges), and a reasonable provision for contingencies.

<sup>3</sup> § 3622(b), Rates and Fees, provides that

(b) Upon receiving a request, the Commission shall make a recommended decision on the request for changes in rates or fees in each class of mail or type of service in accordance with the policies of this title and the following factors:

- (1) the establishment and maintenance of a fair and equitable schedule;
- (2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;
- (3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to that class or type plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;
- (4) the effect of rate increases upon the general public, business mail users, and

efficiencies inherent in the “local only” mail service which result from presort and delivery functions provided by the “local only” mailer. Such a rate schedule is neither reasonable nor equitable and contravenes the statutory requirement that a properly defined class of mail recover its own direct and indirect costs.

3) By charging the same rates for local and non-local mail, the USPS’s proposed prices fail to consider the savings engendered by customer provided presort and delivery services. For example, under the USPS’s proposed rates, it costs a mailer the same amount to mail a First Class letter to an address/ across the street after depositing it in a “local only” mail depository, actually presorting it to a five digit zip code and delivering the article to the delivering Post Office, as it does to mail that same article across the country for delivery by a distant Post Office. It is clear that in order to comply with Congressional directive, a local mailing rate is required to be applied to the USPS’s “local only” mail service.

4) Niagara's proposed institution of a “local only” mailing rate will not lead to consumer confusion. The USPS currently has many rates for different kinds of mail, including intricate and subjective rates based upon the percentage of editorial content. The USPS even has mail

---

enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

(8) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

(9) such other factors as the Commission deems appropriate.

classifications and rates which contain distance sensitive components. As noted in Niagara's Direct Testimony, Tr. Vol. 21 at 10651, the USPS has already developed "local only" mailing areas. These "local only" areas are listed on the "local only" mailing depositories which are endemic at United States post offices. On oral cross examination, Mr. Peterson testified that the USPS has developed local mailing rates for Fourth Class bound printed matter. Tr. Vol. 21 at 10671. Moreover, the USPS has provided information indicating the manner in which each Post Office already determines what constitutes its "local only" mailing area. Postal Service Manual transmittal letter TL-2, dated November 18, 1974, Issue 90, §352.521(a), Local Delivery, Tr. Vol. 19B at 8923. The issue is not whether it is possible to develop a "local only" mailing area definition; the USPS has already established local mailing areas which are familiar to postal patrons. The issue, is whether the USPS may provide the "local only" mailing service without making any attempt to ensure that the "local only" mailing rate is reasonable, fair, and equitable as required by the postal statutes.

5) Niagara presented evidence which showed that "local" mail boxes and "local" mail slots existed in all but one of the approximately 150 post offices Mr. Peterson has visited over the past several years. Tr. Vol. 21 at 10650-51; 10659. Niagara is not aware that the USPS has presented any evidence to the contrary. In fact, the USPS acknowledges that postal regulations require "all Post Offices . . . have a lobby drop for local mail." Tr. Vol. 19B at 8917. See also, Postal Service Manual transmittal letter TL-2, dated November 18, 1974, Issue 90, §352.521, Local Delivery, Tr. Vol. 19B at 8923, which requires each main post office, and other locations, to have clearly identified "local delivery" mail depositories. Thus, Niagara is not proposing to institute a new mail box which would require postal patrons to learn a new mailing procedure.

The “local only” mail depositories already exist, Niagara is merely seeking implementation of a fair pricing schedule which recoups the reduced costs associated with “local only” mail.

6) In prior years the USPS recognized a price distinction between "local" and "out of town" mail. Tr. Vol 21 at 10651, 10653. As an historical fact, local mail costs consumers less than did non-local mail. As required by the pertinent statutes, Niagara seeks to have the USPS acknowledge once again that local mail simply does not cost as much to process as does mail which is sent long distances.

7) The USPS responds that

the primary reason that local offices implement these kind of ‘local drops’ is service as opposed to cost savings and/or gains in efficiencies. The volume of mail deposited in these boxes represents only a minute portion of the overall mail volume processed by the Postal Service. Accordingly, the Postal Service has not conducted any studies or experiments concerning cost savings or efficiencies realized through implementation of “Local Only” mail depositories. Therefore, no consideration was given to establishing a discounted rate for mail deposited into “Local Only” depositories.

Tr. Vol. 19B at 8918 (emphasis added). The USPS’s position is not well taken.

8) First, the USPS’s response concedes that “local only” mail is a “service” provided to the public for which the USPS has not determined the applicable rate. Second, it does not accrue to the USPS’s favor that is “has not conducted any studies or experiments concerning cost savings or efficiencies realized through implementation of ‘Local Only’ mail depositories.” The USPS’s failure in this regard does not negate the fact that such efficiencies exist and does not mean that a “local only” rate should not be recommended, especially where the USPS asserts that we are concerned with only a “minute portion of the overall mail volume.” Third, it strains credulity to believe that, after years of trying to wring waste out of the postal system, the USPS has not at all pondered the efficiencies of “local only” mailing. If collecting mail in “local only”

depositories were inefficient, one would expect that the USPS would have eliminated the service long ago.<sup>4</sup>

9) The USPS attempts to down play the significance of "local mail" as a mere "minute portion of the overall mail volume."<sup>5</sup> However, if such mail volumes were truly inconsequential, the USPS utterly fails to explain why it has developed regulations requiring every Post Office to maintain a mail depository for "local delivery." Moreover, the USPS fails to consider that mail deposited in the "local only" depositories required to be maintained by the Post Offices across the country is sorted by the mailer to a five digit zip code. A discount is given to pre-bar coded mail because such mail more easily processed with automation. "Local" mail is the ultimate pre-processed mail -- it is delivered to the delivering post office by the mailer. Mail deposited by the mailer into "Local Only" depositories is presorted by the mailer to the five digit zip code of the "local" community.

10) The "local only" postal patron performs a sorting routine which results in reduced mail handling for the Post Office. The only sorting which remains for the Post Office is limited to placing the mail in a recipient's post box or in a mail carrier's mail bag, operations which do

---

<sup>4</sup> The USPS has testified that in the Fall of 1995 it considered conducting an experiment for "local only" mail called "Neighborhood Mail." However, without explaining why, the USPS did not implement the experiment. The USPS would have used existing rates for "third-class desitnation delivery-unit-entered, saturation walk-sequenced mail." Tr. Vol. 19B at 8926.

<sup>5</sup> Niagara testified that "local only" mail constitutes a significant mail volume. Tr. Vol. 21 at 10659, 10665. Moreover, as discussed above, "local delivery" depositories are a postal requirement for post offices across the country. Regardless of whether the total volume of "local only" mail is significant compared to the total volume of all mail, §3622(b)(2) requires recovery of costs attributable to the services provided by the USPS, notwithstanding the ratio of the mail processed in that service compared to the overall mail flow.

not require a bar code. Tr. Vol. 21 at 10651-52. §3622(b)(6) requires that the mail preparation performed by the “local only” mailers, i.e., the sortation of the mail to five digits and delivery to the USPS’s designated “local delivery” mail depositories be factored into the rates charged by the USPS. It is submitted that it is not possible for a mailer to do more to save the USPS sortation and transportation expenses than a) to sort the mail to five digit zip codes and b) to deliver the sorted mail to the “local only” collection depositories designated by receiving/delivering Post Office.

11) To Niagara’s knowledge, Mr. Peterson’s testimony about on premises sortation of “local only” mail by the receiving/delivering Post Office at approximately 150 Post Offices is uncontradicted. Tr. Vol. 21 at 10659. Indeed, after years of denying the existence of such procedures, the USPS acknowledges this mail sortation procedure. Tr. Vol. 19B at 8918. Thus, it must be concluded that on premises sortation of “local only” mail by the receiving/delivering Post Office is pervasive and results in significant transportation savings for the USPS.

12) To the extent that the USPS argues, in a general fashion, that it might transport "local only" mail from the receiving/delivering Post Office to a central processing facility for delivery back to the receiving/delivering Post Office, that practice is either unreasonable, wasteful of natural resources, environmentally unsound, and otherwise uneconomical, in which case postal patrons should not be required to pay for such costs, or, more likely, the USPS has found such handling to involve efficiencies and cost savings. The benefits of those efficiencies should accrue to “local only” mailers. Tr. Vol. 21 at 10652.

13) Even if the “local only” mail were transported from the receiving/delivering Post Office to a central sortation and then back to the receiving/delivering Post Office for delivery,

and even if no transportation savings or savings through other efficiencies could be passed onto consumers, "local only" mail would still be entitled to discounts for being presorted to five digit zip codes and for being delivered to the delivering Post Office. In any event, Niagara's experience is that "local" mail is sorted on premises where the "local only" mail is deposited and no transportation occurs at all. Tr. Vol. 21 at 10659. Niagara is not aware that the USPS has directly contradicted Niagara's studies in this regard.

### **CONCLUSION**

14) Since Docket R90-1 Niagara has attempted to have the USPS institute a rate structure which reflects the costs of mail which is deposited into "local only" mail depositories. The USPS has resisted Niagara's efforts to obtain a lower rate for local only mail, even though the USPS considers, whether correctly or incorrectly, the "local only" mail volume involved to be "minute."

15) Niagara's evidence in this proceeding is compelling and, to our knowledge, uncontradicted. Indeed, the USPS has provided the regulations for our review which requires the establishment of "local delivery" mail depositories. The USPS has not conducted any studies to ascertain the costs associated with "local only" mailing. Because it must be assumed that the USPS is operating efficiently and that the "local only" mail depositories generate cost savings else the USPS would not have them, and because mail which is properly deposited into a "local only" mail depository is presorted to a five digit zip code and actually delivered to the delivering Post Office, it must be concluded that "local only" mail processing involves cost savings which are not reflected in the USPS's proposal to charge the same rate for local and non-local mail.

16) Examination of the nine factors listed in §3622 to be considered in determining



whether proposed rates are reasonable demonstrates that discrete pricing for “local only” mail is required. §3622(b)(2) requires that methods of collection and modes of transportation be considered. “Local only” mail is delivered to the delivering Post Office and such mail is processed on premises thereby avoiding substantial transportation costs.

17) §3622(b)(3) requires each type of mail service to bear its own direct and indirect costs. “Local only” mail already exists as a service provided by the USPS, recommendation of discrete pricing for “local only” mail would, therefore, further the statutory goal of service by service cost recovery.

18) The concern in §3622(b)(4) about the “effect of rate increases upon the general public” is not implicated by “local only” pricing. First, the general public will be able to realize the cost savings through the use of local mail to mail utility bills and other local mailing matter. Second, the USPS considers the mail volume to be inconsequential, therefore, a reduction in the price of “local only” mail will not adversely affect the prices of other mail classes.

19) The alternatives to “local only” mail are higher priced courier services and the other higher priced services offered by the USPS. Thus, §3622(b)(5) counsels for adoption of a “local only” rate structure.

20) §3622(b)(6) requires consideration of the degree of preparation of the mail by the mailer. In “local only” mail processing, the mailer presorts the mail to five digit zip code by delivering it to the “local only” mail depositories designated by the local Post Office. Moreover, the “local only” mailer delivers the mail to the delivering Post Office. These are significant cost savings which must be passed to the “local only” mailers.

21) §3622(b)(7) takes into account simplicity of the rate structure and identifiable

relationships between rates and services provided. Adoption of “local only” rates could not involve a simpler concept. The general public is already used to using “local only” mail depositories. Implementation of an appropriate discounted rate merely seeks to reward “local only” mailers for saving the USPS transportation and sortation costs.<sup>6</sup>

22) By failing to account for cost savings garnered by mailers presorting “local only” mail to five digit zip codes, by failing to account for cost savings garnered by mailers delivering the “local only” mail to the “local delivery” mail depositories designated by the local Post Offices, and by failing to account for significant transportation savings involved in on premises “local only” mail sortation, the USPS’s proposed rates which fails to include a “local only” rate for First Class mail is patently unreasonable pursuant to 39 U.S.C. §3621 and 3622(b). Thus, the Postal Rate Commission should either a) reject the USPS’s proposed rates; b) assign rates to “local only” mail which includes a combination of an entered at destination discount plus a presorted rate which is equal to 33% of the USPS’s proposed First Class rates for the same weight article; or c) provide any other relief which the Postal Rate Commission considers is appropriate.<sup>7</sup>

---

<sup>6</sup> The Postal Rate Commission has under consideration “Courtesy Envelope Mail” in which a mailer which provides a recipient with a return envelope obtains the same discount on the return as was applied to the initial mailing. A “local only” rate is not a complex. Moreover, it would be an unreasonable rate structure which provided a discount on a return envelope in the Courtesy Envelope Mail service which travels 3000 miles while not affording any discount to “local only” mail which is presorted and which is delivered by the mailer to the delivering Post Office.


<sup>7</sup> Assuming that the USPS is correct that the amount of “local only” mail is “minute” and not worth the USPS’s time to study, then recommendation of a “local only” rate will not have a deleterious effect upon overall postal revenues. Witness Peterson testified that implementation of a “local only” rate would be revenue neutral because such a rate would “merely reflect[] the increase[d] efficiency and productivity associated with that service.” Tr. Vol. 21 at 10666.

23) The remedies proposed herein do not unduly interfere with the management of the USPS. As discussed above, the USPS's regulations and its real world practices provide for the collection of "local only" mail. Requiring the USPS to price the already existing "local only" service in accordance with statutory requirements, therefore, is responsive to the USPS's request for rate changes and furthers the objectives of the Board of Governors.

Hill & Welch  
1330 New Hampshire Ave., N.W. #113  
Washington, D.C. 20036  
(202) 775-0070  
(202) 775-9026 (FAX)  
welchlaw@clark.net

April 1, 1998

Respectfully submitted,  
NIAGARA TELEPHONE COMPANY

  
Timothy E. Welch

Its Attorney

## CERTIFICATE OF SERVICE

I hereby certify that I have this 1st day of April 1998 supervised the service of the foregoing document upon all parties of record as required by Section 12 of the Rules of Practice.

  
Timothy E. Welch